

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRAVELERS CASUALTY AND SURETY
COMPANY as Administrator for RELIANCE
INSURANCE COMPANY,

Case No. 07-CV-6915(DLC)
ECF Case

Plaintiff,

-against-

DORMITORY AUTHORITY – STATE OF
NEW YORK, TDX CONSTRUCTION CORP.
and KOHN PEDERSON, FOX ASSOCIATES,
P.C.,

Defendants.

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DORMITORY AUTHORITY OF THE STATE
OF NEW YORK AND TDX CONSTRUCTION
CORP.,

Third-Party Plaintiffs,

-against-

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

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TRATAROS CONSTRUCTION, INC. and
TRAVELERS CASUALTY AND SURETY
COMPANY,

Fourth-Party Plaintiffs,

-against-

CAROLINA CASUALTY INSURANCE
COMPANY, Et Al.

Fourth-Party Defendants.

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DECLARATION OF JOHN P. De FILIPPIS IN SUPPORT OF THE MOTION TO
DISMISS THE FOURTH-PARTY COMPLAINT AGAINST FOURTH-PARTY DEFENDANT
UNITED STATES FIRE INSURANCE COMPANY PURSUANT TO FED. R. CIV. P. 12(b)(6)

I, John P. De Filippis, declare as follows:

1. I am an Associate of the law firm of Carroll, McNulty & Kull LLC, attorneys for Fourth-Party Defendant, United States Fire Insurance Company ("U.S. Fire"). I submit this declaration in support of U.S. Fire's Fourth-Party Defendant's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) the claims set forth against it in the Fourth-Party Complaint of Trataros Construction Inc. ("Trataros") and Travelers Casualty and Surety Company ("Travelers").

2. A true and correct copy of the fully executed Stipulation memorializing the parties' agreement as to the discontinuance of all claims against U.S. Fire relative to the insurance policy issued by U.S. Fire to Trataros subcontractor G.M. Crocetti is annexed hereto as Exhibit "A."

3. A true and correct copy of the Answer of G.M. Crocetti to the Amended Fourth-Party Complaint, dated June 3, 2005, and filed in the 2004 Action is annexed hereto as Exhibit "B."

4. A true and correct copy of the letter dated March 7, 2003, from TDX Construction Corp. ("TDX") to Trataros containing with an expert report revealing the extensive debonding of the terrazzo system is annexed hereto as Exhibit "C."

5. A true and correct copy of the letter June 17, 2003, from TDX to DASNY regarding investigations and analyses performed by three different firms with respect to the alleged failure of the terrazzo system is annexed hereto as Exhibit "D."

6. A true and correct copy of the letter dated on August 28, 2003, from TDX to DASNY noting is annexed, noting hazardous conditions due to the deficiencies in the terrazzo flooring and underlayment at Baruch College is annexed hereto as Exhibit "E."

7. A true and correct copy of the Complaint filed on June 28, 2004 is annexed hereto as Exhibit "F."

8. A true and correct copy of Third-Party Complaint filed by DASNY on or about August 4, 2004 is annexed hereto as Exhibit "G."

9. A true and correct copy of the Amended Fourth-Party Summons and Amended Fourth-Party Complaint and Cross-Claims, dated February 17, 2005, is annexed hereto as Exhibit "H."

10. A true and correct copy of U.S. Fire's April 21, 2005 Answer to the Amended Fourth-Party Complaint is annexed hereto as Exhibit "I."

11. A true and correct copy of the Stipulation of Dismissal Without Prejudice filed October 7, 2005 by the parties to the 2004 Action is annexed hereto as Exhibit "J."

12. A true and correct copy of the Fourth-Party Complaint filed by Trataros on November 14, 2007 is annexed hereto as Exhibit "K."

13. A true and correct copy of the Affidavit of Sherrienne Hanavan for RiverStone, with relevant portions of the U.S. Fire Policies (Exhibit "A" thereto) and U.S. Fire's letter, dated April 18, 2005, to Plaintiffs' counsel, disclaiming coverage (Exhibit "B" thereto) is annexed hereto as Exhibit "L."

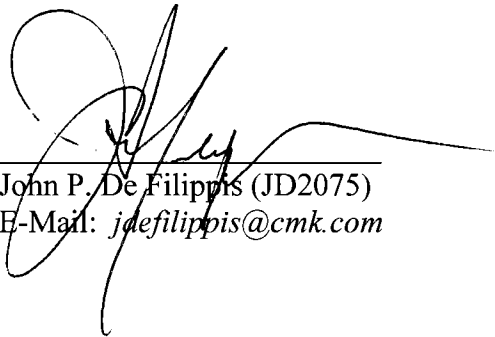
14. A true and correct copy of the certificates of insurance obtained by Trataros in 1998 Trataros which identify the insurers, the policies and the insurance brokers to which a claim could be presented is annexed hereto as Exhibit "M."

15. A true and correct copy of the relevant portions of U.S. Fire Policies including the definitions of "property damage," "occurrence," provisions on Products Completed Operations

Hazards, and the faulty workmanship exclusion, is annexed hereto as Exhibit "N."

I declare under the penalties of perjury that the foregoing is true and correct.

Executed this 11th day of February, 2008, at New York, New York.



John P. De Filippis (JD2075)
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